

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305, titled Medical Dispute Resolution-General, and 133.307, titled Medical Dispute Resolution of a Medical Fee Dispute, a review was conducted by the Medical Review Division regarding a medical fee dispute between the requestor and the respondent named above.

I. DISPUTE

1.
 - a. Whether there should be reimbursement for date of service 8-6-01.
 - b. The request was received on 7-29-02.

II. EXHIBITS

1. Requestor, Exhibit I:
 - a. TWCC 60
 - b. UB-92
 - c. EOBs
 - d. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
2. Respondent, Exhibit II:

No response noted from the Respondent in the dispute packet.
3. The Commission requested two copies of additional documentation via a Fee Letter (MR116) that was mailed to the Requestor on 8-5-02. No additional information from the Requestor was noted in the dispute packet. No Carrier three (3) day response or (14)-day response was noted in the dispute packet. The "No Response Submitted" sheet is reflected as Exhibit II of the Commission's case file.

III. PARTIES' POSITIONS

1. Requestor: Position statement taken from the Table of Disputed Services:

"The Carrier issued an EOB with 'Recommended Payment' but a check has not been issued to date. Therefore, the Carrier has not provided evidence of 'final action.' In addition, the Carrier did not provide the proper payment exception code."
2. Respondent: No response noted in the dispute packet.

IV. FINDINGS

1. Based on Commission Rule 133.307(d) (1) (2), the only date of service eligible for review is 8-6-01.
2. The carrier denied the billed services reflected on the EOB as, "F – PAID PER FAIR AND REASONABLE PLEASE REFER TO ATTACHED ITEMIZATION".

3. Per the Requestor's Table of Disputed Services, the Requestor billed the Carrier \$10,050.19 for services rendered on the date of service in dispute above.
4. According to the EOB dated 1-9-02 the Carrier recommended payment in the amount of \$6,769.84.
5. The amount in dispute according to the Table of Disputed Services is \$10,050.19.
6. The services provided by the Requestor include such items as anesthesia and lab services, pharmaceutical products, medical and surgical supplies, sterile supplies and EKG.

V. RATIONALE

Medical Review Division's rationale:

The UB-92 indicates the services were performed at an outpatient/ambulatory surgical center. Pursuant to Rule 133.307 (g) (3) (D), the requestor must provide "...documentation that discusses, demonstrates and justifies that the payment amount being sought is a fair and reasonable rate of reimbursement ...".

The carrier, according to their denial on the EOB, asserts that they have paid a fair and reasonable reimbursement, but has not submitted a methodology to support its reimbursement. Per Rule 133.304 (i), "When the insurance carrier pays a health care provider for treatment(s) and/or service(s) for which the Commission has not established a maximum allowable reimbursement, the insurance carrier shall:

1. develop and consistently apply a methodology to determine fair and reasonable reimbursement amounts to ensure that similar procedures provided in similar circumstances receive similar reimbursement;
2. explain and document the method it used to calculate the rate of pay, and apply this method consistently;
3. reference its method in the claim file; and
4. explain and document in the claim file any deviation for an individual medical bill from its usual method in determining the rate of reimbursement."

The response from the carrier shall include, per Rule 133.307 (j) (1) (F), ".... if the dispute involves health care for which the Commission has not established a maximum allowable reimbursement, documentation that discusses, demonstrates, and justifies that the amount the respondent paid is a fair and reasonable rate of reimbursement in accordance with Texas Labor Code 413.011 and §133.1 and 134.1 of this title;".

The response from the carrier shall include, per Rule 133.307 (j) (1) (F), “.... if the dispute involves health care for which the Commission has not established a maximum allowable reimbursement, documentation that discusses, demonstrates, and justifies that the amount the respondent paid is a fair and reasonable rate of reimbursement in accordance with Texas Labor Code 413.011 and §133.1 and 134.1 of this title;”

Due to the fact that there is no current fee guideline for ASCs, the Medical Review Division has to determine, based on the parties’ submission of information, who has provided the more persuasive evidence of what is fair and reasonable. The Respondent has failed to supply a methodology to support their denial. However, as the requestor, the health care provider has the burden to provide documentation that “...discusses, demonstrates, and justifies that the payment being sought is fair and reasonable rate of reimbursement...” pursuant to TWCC Rule 133.307 (g) (3) (D). Therefore no **additional** reimbursement can be recommended, as there was no documentation noted in the dispute packet that discusses, demonstrates, and justifies that the billed amount represents a fair and reasonable charge. The requestor has however, submitted an EOB that recommends payment in the amount of \$6,769.84. No other documentation was noted in the dispute packet from the Carrier to support or refute the recommended payment.

Reimbursement is recommended in the amount of **\$6,769.84**.

The above Findings and Decision are hereby issued this 25th day of March 2003.

Lesa Lenart
Medical Dispute Resolution Officer
Medical Review Division

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VI. ORDER

Pursuant to Sections 402.042, 413.016, 413.031, and 413.019 the Medical Review Division hereby ORDERS the Respondent to remit **\$6,769.84** plus all accrued interest due at the time of payment to the Requestor within 20 days receipt of this order.

This Order is hereby issued this 25th day of March 2003.

Carolyn Ollar, Supervisor
Medical Dispute Resolution Officer
Medical Review Division

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